

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

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10 ANTHONY ELLIOTT,

Petitioner,

Case No. 3:20-cv-00529-RCJ-CLB

ORDER

11 v.

12 PERRY RUSSELL, et al.,

13 Respondents.

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16 Respondents have filed a motion to dismiss Anthony Elliott's pro se 28 U.S.C. §
17 2254 habeas corpus petition (ECF No. 7). Elliott filed a motion for extension of time to
18 respond, which the court granted (ECF Nos. 15, 16).

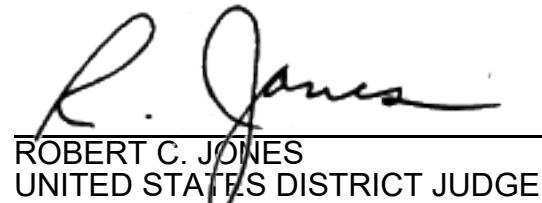
19 Instead of filing an opposition, Elliott has filed a motion for appointment of
20 counsel (ECF No. 17). There is no constitutional right to appointed counsel for a federal
21 habeas corpus proceeding. *Pennsylvania v. Finley*, 481 U.S. 551, 555 (1987); *Bonin v.*
22 *Vasquez*, 999 F.2d 425, 428 (9th Cir.1993). The decision to appoint counsel is
23 generally discretionary. *Chaney v. Lewis*, 801 F.2d 1191, 1196 (9th Cir.1986), cert.
24 denied, 481 U.S. 1023 (1987); *Bashor v. Risley*, 730 F.2d 1228, 1234 (9th Cir.), cert.
25 denied, 469 U.S. 838 (1984). However, counsel must be appointed if the complexities
26 of the case are such that denial of counsel would amount to a denial of due process,
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1 and where the petitioner is a person of such limited education as to be incapable of
2 fairly presenting his claims. *See Chaney*, 801 F.2d at 1196; *see also Hawkins v.*
3 *Bennett*, 423 F.2d 948 (8th Cir.1970). Here, Elliott has filed a form motion for counsel
4 and does not set forth any specific reasons why counsel is justified. His petition sets
5 forth his claims clearly, and the legal issues do not appear to be overly complex. Elliott's
6 motion for counsel is denied.

7 **IT IS THEREFORE ORDERED** that petitioner's motion for appointment of
8 counsel (ECF No. 17) is **DENIED**.

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10 **IT IS FURTHER ORDERED** that petitioner must **FILE** his response to the motion
11 to dismiss, if any, within **21 days** of the date of this order. Respondents may then file a
12 reply in accordance with the Local Rules.

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15 DATED: 1 February 2022.

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19 ROBERT C. JONES
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21 UNITED STATES DISTRICT JUDGE
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